

21 C.J.S. Courts § 202

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Courts

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VI. Rules of Adjudication, Decisions, and Opinions

B. Stare Decisis

2. Courts Making Prior Decision

§ 202. Intermediate appellate courts

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West's Key Number Digest

West's Key Number Digest, [Courts](#)  91(2), 96(1)

Decisions of intermediate appellate courts will be followed until reversed or overruled.

Although the doctrine of stare decisis does not apply with full force,¹ the decision of an intermediate appellate court is the law of the jurisdiction until it is reversed or overruled by the court of last resort.² A decision by an intermediate appellate court may be reversed or overruled only by the state's highest court,³ and a decision of an intermediate appellate court that is not in accord with the decisions of the court of last resort lacks authoritative force.⁴ A decision of the United States Supreme Court vacating a judgment of a court of appeals deprives the lower court's opinion of precedential effect.⁵

It is generally held that, although persuasive,⁶ the decisions of an intermediate court are not binding on the highest court,⁷ which may affirm for any basis presented in the record.⁸ However, there is

authority that although a decision of an intermediate court is not precedential in the state supreme court when it has accepted review of the case,⁹ stare decisis may require that the supreme court abide by precedent established by the intermediate court unless a compelling reason exists to overrule it.¹⁰

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Footnotes

- 1 Okla.—*Jackson v. Carroll*, 1922 OK 61, 86 Okla. 230, 207 P. 735 (1922).
Pa.—*In re Brolasky's Estate*, 302 Pa. 439, 153 A. 739 (1931).
- 2 Ariz.—*State v. Sang Le*, 221 Ariz. 580, 212 P.3d 918 (Ct. App. Div. 2 2009).
Md.—*Ralkey v. Minnesota Min. & Mfg. Co.*, 63 Md. App. 515, 492 A.2d 1358 (1985).
Mass.—*Adamowicz v. Town of Ipswich*, 395 Mass. 757, 481 N.E.2d 1368 (1985).
Mich.—*Moorhouse v. Ambassador Ins. Co., Inc.*, 147 Mich. App. 412, 383 N.W.2d 219 (1985).
Tex.—*City of San Antonio v. Gonzales*, 737 S.W.2d 78 (Tex. App. San Antonio 1987).
Trial court's absolute duty to follow decision
Ill.—*In re R.C.*, 195 Ill. 2d 291, 253 Ill. Dec. 699, 745 N.E.2d 1233 (2001).
- 3 Ill.—*Gillen v. State Farm Mut. Auto. Ins. Co.*, 215 Ill. 2d 381, 294 Ill. Dec. 163, 830 N.E.2d 575 (2005).
- 4 Ala.—*Patterson v. Gladwin Corp.*, 835 So. 2d 137 (Ala. 2002).
N.H.—*Stevens v. City of Manchester*, 81 N.H. 369, 127 A. 873 (1924).
Tex.—*Francis v. Thomas*, 129 Tex. 579, 106 S.W.2d 257 (Comm'n App. 1937).
- 5 U.S.—*Los Angeles County v. Davis*, 440 U.S. 625, 99 S. Ct. 1379, 59 L. Ed. 2d 642 (1979); *O'Connor v. Donaldson*, 422 U.S. 563, 95 S. Ct. 2486, 45 L. Ed. 2d 396 (1975).
- 6 Idaho—*State v. Morton*, 140 Idaho 235, 91 P.3d 1139 (2004).
- 7 Ill.—*AFM Messenger Service, Inc. v. Department of Employment Sec.*, 198 Ill. 2d 380, 261 Ill. Dec. 302, 763 N.E.2d 272 (2001).
Idaho—*State v. Morton*, 140 Idaho 235, 91 P.3d 1139 (2004).
Mich.—*Catalina Marketing Sales Corp. v. Department of Treasury*, 470 Mich. 13, 678 N.W.2d 619 (2004).
Wash.—*Bunch v. King County Dept. of Youth Services*, 155 Wash. 2d 165, 116 P.3d 381 (2005).
Even if published
Ark.—*Williams v. State*, 351 Ark. 215, 91 S.W.3d 54 (2002).
Opinion of single intermediate court
Cal.—*Grafton Partners L.P. v. Superior Court*, 36 Cal. 4th 944, 32 Cal. Rptr. 3d 5, 116 P.3d 479 (2005).

- 8 Ill.—*People v. Williams*, 2016 IL 118375, 47 N.E.3d 976 (Ill. 2016).
- 9 Wis.—*State v. Hayes*, 2004 WI 80, 273 Wis. 2d 1, 681 N.W.2d 203 (2004).
- 10 Bolstad v. State, 2016 WL 1128423 (Minn. 2016).
- Wis.—*State v. Douangmala*, 2002 WI 62, 253 Wis. 2d 173, 646 N.W.2d 1 (2002).

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